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**BEFORE GUAM ENVIRONMENTAL PROTECTION AGENCY  
BOARD OF DIRECTORS**

IN THE MATTER OF:	) ADMINISTRATIVE APPEAL
	) CASE NO. 01-2013
	)
ADMINISTRATIVE APPEAL OF	) <b>FINDINGS OF FACT AND</b>
TRASHCO.	) <b>CONCLUSIONS OF LAW</b>
	)
	)

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This matter came before the Board of Directors of the Guam Environmental Protection Agency on February 21, 2013 for a hearing on the Amended Notice of Violation, Order of Compliance and Administrative Penalty Order (NOV/OC/APO) SW02A-2012. Said hearing was conducted pursuant to the Administrative Adjudication Law, Title 5 G.C.A. Chapter 9, and Chapter 10 G.C.A. § 51109. Present were the Hearing Officer, Assistant Attorney General David J. Highsmith; Mr. Ross Morrison, Director of Respondent Morrico Equipment, LLC (hereinafter "Morrico"); and Mr. Roland Gutierrez and Assistant Attorney General R. Happy Rons, representing the Guam Environmental Protection Agency (GEPA). GEPA representatives made an opening statement and Mr. Morrison responded by admitting most of the pertinent facts, but alleging extenuating circumstances regarding the violation, as

9. GEPA issued an Amended Notice of Violation, Order of Compliance and Administrative Penalty Order (NOV/OC/APO) SW02A-2012 on November 15, 2012.

10. Said Amended Notice of Violation found that Morrico had violated Title 10 G.C.A. § 51110(a)(1), which prohibits the violation of Chapter 51 of Title 10 G.C.A.

11. Said Notice of Violation found that Morrico had violated Title 10 G.C.A. §5110(a)(3), which states: "It shall be unlawful for any person to place or allowed to be placed, any solid waste upon the highways, public or private property contrary to the provisions of this Chapter."

12. Said Notice of Violation found that Morrico had violated Title 10 G.C.A. §5110(a)(5), which states: "It shall be unlawful for any person to store, collect, transport, process or dispose of solid waste in such a manner as to degrade the environment, create a public nuisance, create a health and safety hazard, or violate any provisions of this Chapter."

13. The Order of Compliance issued pursuant to Title 10 G.C.A. § 51103(a)(9), and which accompanied said Amended Notice, commanded Morrico to cease placing solid waste illegally, to conduct certain training for all Morrico employees who participate in trash collection, and to verify compliance with said Order of Compliance by affidavit within twenty days after receiving the order.

14. The penalty imposed by said Amended Notice of Violation was payment of a \$1,000.00 fine pursuant to Title 10 G.C.A. §51115(b) and (e) within 15 days after receipt of the Amended Notice.

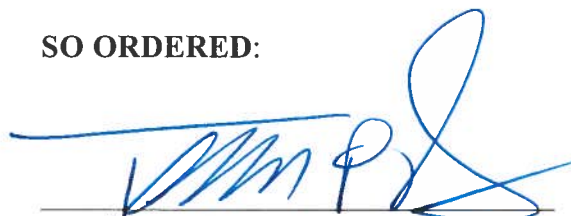
15. Upon reviewing the evidence and hearing testimony, the Board finds that the facts alleged in the Notice of Violation were correct, that the compliance measures ordered

D) Pay the \$1,000 administrative penalty order assessed in the NOV/OC/APO.

This order is issued under the authority of the Solid Waste Management and Litter Control Act, as amended, 10 G.C.A. §51103(a)(9). If any of said measures are not taken in the specified time, additional administrative penalties may be assessed.

Dated this 16 day of May, 2013.

**SO ORDERED:**

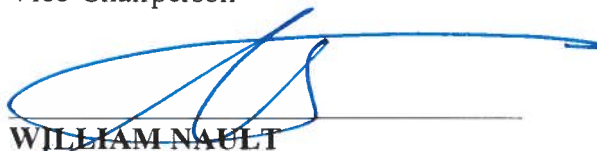


**TERRENCE M. BROOKS**

Vice-Chairperson



**STEVEN CARRARA**



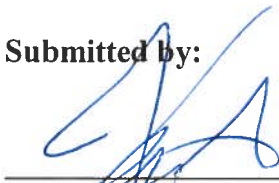
**WILLIAM NAULT**

**JEROME ROCCO**

  
**ANN ROTH**  
**FLORIDA SANCHEZ**

**VICTOR ZHAO**

**Submitted by:**

  
**KENNETH D. ORCUTT, AAG, for**  
**R. HAPPY RONS, AAG, for**  
**Guam Environmental Protection Agency**

Dated: 5/16/13

  
**DAVID J. HIGHSMITH, AAG**  
**Hearing Officer**

# GUAM ENVIRONMENTAL PROTECTION AGENCY

AGENSIA PROTUKSION LINA'LA GUAHAN



EDDIE BAZA CALVO  
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November 15, 2012

Mr. Ross Morrison  
Director  
Morrico Equipment, LLC  
d/b/a Trashco Guam  
197 Ypao Road  
Tamuning, Guam 96910

Dear Mr. Morrison:

**RE: Amended Notice of Violation, Order of Compliance and  
Administrative Penalty Order (NOV/OC/APO) SW02A-2012**

You are hereby advised that the Guam Environmental Protection Agency (Guam EPA) retracts the NOV/OC/APO SW-02-2012, dated August 28, 2012 and in its place issues this amended NOV/OC/APO SW02A-2012 to Morrico Equipment, LLC, d/b/a Trashco Guam, located at 197 Ypao Road, in the municipality of Tamuning. A representative of (Guam EPA) found that Trashco Guam (Trashco) had committed solid waste violations at the Department of Public Health and Social Services locations in Dededo and Mangilao on July 18, 2012.

The Guam Environmental Protection Agency (Guam EPA) is charged with the responsibility of implementing the Solid Waste Management and Litter Control Act (SWMLCA), as amended, Chapter 51 of Title 10, Guam Code Annotated (G.C.A.), Public Law No. 23-64, and the Hazardous Waste Management Regulations, Chapter 30, of Title 22, Division 6, Guam Administrative Rules and Regulations (GAR).

10 G.C.A. Ch. 51, Section 51103(a)(9) states that, "The Agency shall have the authority under this Act to prepare, issue, modify, remove, and enforce orders for compliance with any of the provisions of this Chapter, or of any rules and regulations issued pursuant thereto, and requiring the taking of such remedial measures for solid waste management as may be necessary or appropriate to implement or effectuate the provisions and purposes of this Chapter".

10 G.C.A. Ch. 51, § 51103(a)(10) states "The Agency shall have the authority under this Act and other laws of Guam, pursuant to the Administrative Adjudication Law, to impose and collect

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- Trashco Guam violated provisions of the Solid Waste Management and Litter Control Act, as described above and below, and in the attached investigation report.
- 2. Section 51110(a)(3) states that "It shall be unlawful for any person to place or allow to be placed, any solid waste upon the highways, public or private property contrary to the provisions of this chapter."
- Trashco Guam placed solid waste directly on the ground of a public place as described above and in the attached investigation report, contrary to the provisions of this chapter, and violated provisions of 10 G.C.A. Chapter 51.
- 3. Section 51110(a)(5), states that, "it shall be unlawful for any person to store, collect, transport, process or dispose of solid waste in such a manner as to degrade the environment, create a public nuisance, create a health and safety hazard, or violate any provisions of this Chapter."
- Trashco Guam violated provisions of 10 G.C.A. Chapter 51 by disposing of solid waste on the ground of a public place, as described above and in the attached investigation report, in a manner to degrade the environment, create a public nuisance, and a health hazard, contrary to the provisions of this chapter.

Under 10 G.C.A. Chapter 51, Section 51110(b), each day of continued violation of this section or the provisions of this chapter or rules and regulations authorized therein shall be deemed a separate offense or violation.

#### **ORDER OF COMPLIANCE**

Based on the violations cited above, Guam EPA hereby requires Morrico Equipment, LLC, d/b/a Trashco Guam to perform the following remedial measures within the time frames stated below, from the date of receipt of this Order:

1. Within twenty-four (24) hours, cease placing or allowing the disposal of solid wastes on public or private property contrary to the provisions of this chapter (i.e. cease dumping trash out of the trash bins of customers that you pick up);
2. Conduct a training for all Morrico Equipment, LLC employees who drive or ride in garbage or trash pick-up vehicles on (a) the public health consequences (e.g., vectors, disease, pollution, etc.) of dumping trash out of containers onto the ground; and (b) the violations of law which occur through such dumping of trash from containers onto the ground, along with maximum penalties provided for under the law for such violations.
3. Confirm in writing, through an affidavit, within twenty (20) calendar days, that the above-referenced remedial measures have been taken, the date each was taken, and include supporting documentation (e.g., sign-in sheet for employees; outline or power point of presentation, etc.)

This Order of Compliance (OC) is issued under the authority of the Solid Waste Management and Litter Control Act, as amended, 10 G.C.A. § 51103(a)(9). If any of the above objectives are not accomplished in the specified time, additional administrative penalties may be assessed.

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on the Notice of Intent to Appeal/Notice of Defense, or until the Administrator issues a decision regarding the Petition for Penalty Adjustment, or Inability to Pay Statement.

Failure to comply with this Administrative Penalty Order may subject you to additional administrative penalties or civil or criminal actions as described above.

### **NOTICE OF RIGHT TO APPEAL**

You may file within fifteen (15) calendar days of the date of this Notice of Violation/Order of Compliance/Administrative Penalty Order, a Notice of Intent to Appeal also known as a Notice of Defense with the Guam EPA's Board of Directors, setting forth in such Notice of Intent to Appeal/Notice of Defense, a verified petition outlining the legal and factual bases for such an appeal. A form copy of the Notice of Intent to Appeal, also known as a Notice of Defense, is attached for your convenience.

Unless a written request for a hearing signed by or on behalf of the person, agency or business entity named above in this Notice of Violation/Order of Compliance/Administrative Penalty Order is made by delivering or mailing the enclosed form entitled "Notice of Intent to Appeal (a/k/a Notice of Defense)", or by delivering a notice of defense as provided in 5 G.C.A. Ch. 9, section 9205, to Guam EPA within fifteen (15) calendar days after the Notice of Violation/Order of Compliance/Administrative Penalty Order was personally served on you or mailed to you, Guam EPA may proceed upon the Notice of Violation/Order of Compliance/Administrative Penalty Order without a hearing.

The Notice of Intent to Appeal and verified petition, also known as a Notice of Defense (a copy of which is enclosed for your convenience), which is a request for hearing, or a Petition for Penalty Adjustment or Inability to Pay Statement, may be made by delivering or mailing the enclosed form entitled "Notice of Intent to Appeal also known as a Notice of Defense", or by delivering or mailing a notice of defense as provided in 5 G.C.A. Ch.9, section 9205, to the following address:

Guam Environmental Protection Agency Board of Directors  
c/o Administrator  
Attn: Air & Land Division  
Guam Environmental Protection Agency  
P.O. Box 22439 Guam Main Facility  
Barrigada, Guam 96921

Alternatively, these documents may be hand-delivered to Guam EPA's main office located at Building 17-3304 Mariner Avenue, Tiyan, Guam, 96913.

The Guam EPA's Board shall then hold a public hearing, not more than sixty (60) days after receipt of such Notice of Intent to Appeal/Notice of Defense, at which time you may appear and present evidence in person or through counsel in support of this petition.

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# GUAM ENVIRONMENTAL PROTECTION AGENCY

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## SOLID WASTE INVESTIGATION

**Purpose:** Complaint

**Date of Incident:** July 18, 2012

**Facility Name:** Department of Public Health and Social Services (DPHSS) Mangilao and Dededo /Trashco Guam (Trashco) Dumping incidents

**Facility Site Addresses:** 123 Chalan Kareta, Mangilao  
520 West Santa Monica Avenue Dededo

**Facility Mailing Address:** P.O. BOX 123 Chalan Kareta, Mangilao, Guam 96913

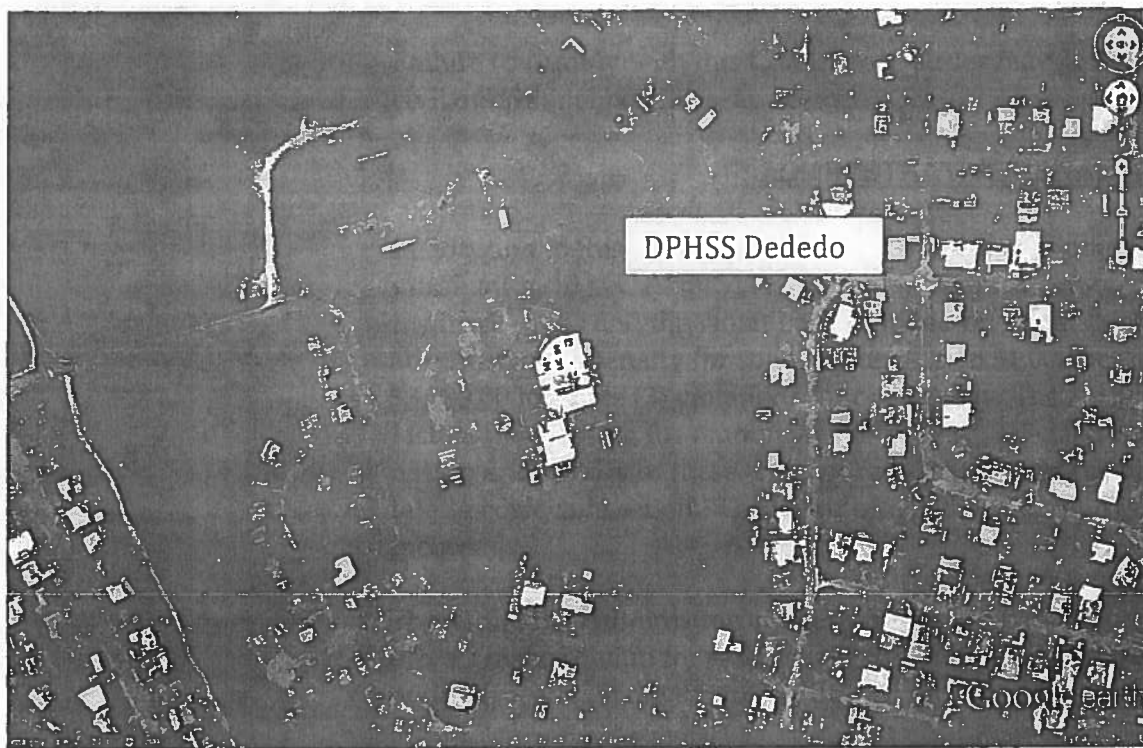
**Phone:** 735-3335

**Facility Representatives:** Messrs. Frank Tedtaotao and Mr. Keith Guerrero

**GEPA Representative:** Roland Gutierrez

**Phone:** 475-1658/9

**Report Date:** July 25, 2011



### Investigation

On July 19, 2012, representatives from Guam EPA received complaints from anonymous individuals and the media that on July 18, 2012, Trashco representatives removed the trash bins at both the DPHSS facilities in Mangilao and Dededo and dumped the contents of the trash bins on the ground. Guam EPA confirmed this by speaking to representatives of the DPHSS. Additionally, a DPHSS employee witnessed a Trashco truck pick up the trash bin, open the doors and dump the trash directly on the ground at the DPHSS Mangilao compound. Furthermore, on August 1, 2012, a representative of Guam EPA spoke to Mr. Alfred Aquino, Operations Manager for Trashco, who admitted that Trashco had picked up the up the trash bins at DPHSS Mangilao and Dededo facilities on July 18, 2012 and dumped the trash directly on the ground.



## NOTICE OF INTENT TO APPEAL (AKA NOTICE OF DEFENSE)

I, \_\_\_\_\_, have received your Notice of Violation, Order of Compliance and/or Administrative Penalty Order dated \_\_\_\_\_, charging me for violations and/or imposing penalties and/or other orders, and I wish to:  
(Please check appropriate sections)

☐ **A. Request for a hearing and**

- ☐ 1. Object to the accusation on the ground that it does not state acts or omissions upon which the Agency can proceed.
- ☐ 2. Object to the form of the accusation on the ground that it is so indefinite or ambiguous that I cannot identify the infraction or prepare my defense.
- ☐ 3. Wish to prepare new matter in my defense.
- ☐ 4. Admit to the accusation in part.

☐ **B. Admit to the accusation in whole.**

☐ **C. Verified Petition: Under penalty of perjury I hereby declare that the following constitutes my legal and factual basis for this appeal:**

\_\_\_\_\_  
\_\_\_\_\_

[please continue on blank sheet of paper if more space is needed and attach to this paper]

My mailing address is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
**SIGNATURE**

\_\_\_\_\_  
**DATE**

**GUAM EPA CASE NO.:** SW02A-2012